



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

VIA FIRST CLASS MAIL

AUG - 3 2012

Leonard Orlando

Green Bay, WI 54302

RE: MUR 6515
Leonard Orlando

Dear Mr. Orlando:

On, July 31, 2012, the Federal Election Commission accepted the signed conciliation agreement and civil penalty you submitted in settlement of a violation of 2 U.S.C. §§ 441b(a) and 441f, provisions of the Federal Election Campaign Act of 1971, as amended. Accordingly, the file has been closed in this matter.

Documents related to the case will be placed on the public record within 30 days. See Statement of Policy Regarding Disclosure of Closed Enforcement and Related Files, 68 Fed. Reg. 70,426 (Dec. 18, 2003) and Statement of Policy Regarding Placing First General Counsel's Reports on the Public Record, 74 Fed. Reg. 66,132 (Dec. 14, 2009). Information derived in connection with any conciliation attempt will not become public without the written consent of the respondent and the Commission. See 2 U.S.C. § 437g(a)(4)(B).

Enclosed you will find a copy of the fully executed conciliation agreement for your files. Please note that the civil penalty is due within 30 days of the conciliation agreement's effective date. If you have any questions, please contact me at (202) 694-1650.

Sincerely,

Kimberly D. Hart
Attorney

Enclosure
Conciliation Agreement

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of

Professional Fire Fighters of Wisconsin

MUR 6515

Former Executive Board Officers:

Tracy Aldrich

Robert G. Baird

Michael Drury

Richard Gale

John C. Gee

Troy W. Haase

Lance A. Hanson

Patrick Kilbane

Len Orlando

Ann Watzka

Michael J. Woodzicka

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CONCILIATION AGREEMENT

This matter was initiated by a *sua sponte* submission ("the Submission") made to the Federal Election Commission ("the Commission") by the Professional Fire Fighters of Wisconsin ("PFFW"), a statewide-affiliate of a national labor organization, and various individuals who served as PFFW officers at different points between 2002 and 2010 (collectively referred to as "Respondents"). The Submission disclosed that, between 2002 and 2010, PFFW reimbursed eleven former officers for \$18,263.34 in federal contributions the officers made in their own names to the International Association of Fire Fighters Interested in Registration and Education PAC ("FIREPAC").

The Commission found reason to believe that PFFW and each of the eleven former PFFW officers named above knowingly and willfully violated 2 U.S.C. §§ 441b(a) and 441f, and 11 C.F.R. §§ 110.4(b) and 114.2(b) and (e), with respect to reimbursed FIREPAC contributions made from 2002 and 2008. Further, the Commission found reason to believe that PFFW violated

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and former PFFW officers Robert G. Baird, John C. Gee, and Lance A. Hanson knowingly and willfully violated 2 U.S.C. §§ 441b(a) and 441f, and 11 C.F.R. §§ 110.4(b) and 114.2(b) and (e), with respect to reimbursed FIREPAC contributions made from 2009 and 2010.

NOW, THEREFORE, the Commission and the Respondents, having participated in informal methods of conciliation prior to a finding of probable cause to believe, do hereby agree as follows:

I. The Commission has jurisdiction over the Respondents and the subject matter of this proceeding, and this agreement has the effect of an agreement entered pursuant to 2 U.S.C. § 437g(a)(4)(A)(i).

II. Respondents have had a reasonable opportunity to demonstrate that no action should be taken in this matter.

III. Respondents enter voluntarily into this agreement with the Commission.

IV. The pertinent facts in this matter are as follows¹:

1. PFFW is the Wisconsin statewide affiliate of the International Association of Fire Fighters ("IAFF"), an international labor organization of professional firefighters and emergency medical personnel throughout the United States and Canada. Both the PFFW and the IAFF are labor organizations within the meaning of 2 U.S.C. § 441b(b).

2. FIREPAC is the separate segregated fund of the IAFF.

3. PFFW is governed by an eleven officer Executive Board, all of whom are full-time firefighters and are elected to staggered three-year terms at annual PFFW state conventions. These firefighters perform the duties of their respective elected offices during their

¹ All general facts about PFFW's structure and operations that do not specify a period of time pertain to both the 2002 to 2010 period and the present.

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nonworking time. PFFW otherwise employs a part-time secretary. PFFW has approximately 2,800 active members, each of whom belongs to one of 55 IAFF local unions, which are grouped into five regional caucuses of PFFW.

4. At various times between 2002 and 2010, PFFW's Executive Board officers included individual respondents Tracy Aldrich, Robert G. Baird, Michael Drury, Richard F. Gale, John C. Gee, Troy W. Haase, Lance A. Hanson, Patrick Kilbane, Len Orlando, Ann Watzka f/k/a Ana Peggs and Michael J. Woodzicka. None of the individual respondents currently serve on the PFFW Executive Board.

5. IAFF sponsors an annual legislative conference in Washington, D.C. Since at least 2002, IAFF has conditioned participation in this conference on an attendee either paying a registration fee to IAFF or making a voluntary contribution to FIREPAC at certain prescribed amounts. The IAFF legislative conference registration materials issued between 2002 and 2010 included the same or substantially identical language cautioning that federal election law prohibited registrants from using union or corporate money to pay for their FIREPAC contributions and that the contributions could not be reimbursed.

6. During a January 2002 leadership retreat, all of which, by design, was off-the-record and not recorded in minutes or otherwise in writing, PFFW's Executive Board discussed IAFF's political and legislative activities and goals, including the importance of PFFW officer participation at IAFF's annual legislative conference in Washington, D.C. Attendance at that conference required either payment of a registration fee to IAFF, then set at \$325, or a contribution to FIREPAC at the recently established annual "Leadership Trust" level of \$500. It was PFFW's policy to pay the registration fee of any PFFW officer attending. The PFFW officers informally agreed that it was preferable that each make the FIREPAC contribution in

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order to assist IAFF's national political program. When some officers expressed concern about their ability to afford such larger contributions to FIREPAC, the officers verbally agreed (again, without creating any written record) that any officer who made such a contribution to attend the legislative conference could submit an expense statement to PFFW seeking payment by the union of per diem and mileage costs for two administrative days, supposedly related to the officers' attendance at a "legislative meeting" in Madison, Wisconsin, where PFFW maintained its statewide office. All PFFW officers understood that these "legislative meetings" would never take place and were devised to conceal PFFW's reimbursement of FIREPAC contributions. Respondents also contend that they discussed and were motivated by the fact that officers often incurred expenses in the course of performing their officer duties for which they either did not or could not seek reimbursement.

7. Respondents contend that this agreement occurred at this January 2002 retreat spontaneously, informally and without prior consideration or consultation among them. Respondents further contend that the officers did not discuss or consider whether this plan would comply with either external law or IAFF policy, and the officers did not consult with legal counsel. In addition, although the IAFF legislative conference registration materials distributed between 2002 and 2010 included the statements described in paragraph 5 above, Respondents contend that the majority of the PFFW officers do not recall seeing those warnings. Respondents further contend that the officers who did recall seeing the warnings claim that they did not recognize that the fictitious legislative meeting expenses constituted prohibited contributions of union dues to a federal political committee as described in the registration materials they received.

8. PFFW carried out this reimbursement plan in connection with the 2002 IAFF legislative conference and several of the Respondents received reimbursements for "legislative meetings." During similar off-the-record retreats held during January or February of each successive year through 2008 -- with the exception of 2004² -- the PFFW Executive Board created similar fictitious "legislative meeting" dates to reimburse with union funds the contributions to FIREPAC by PFFW officers in connection with the IAFF legislative conferences. Respondents contend that they did not engage in any substantive discussions of the reimbursement practices or the IAFF legislative conference registration material statements described in paragraph 5 above at any of the subsequent retreats held between 2003 and 2008 and did not consult with legal counsel about these matters.

9. PFFW used the fictitious legislative meetings scheme to unlawfully reimburse eleven of its former Executive Board officers for \$16,888.34 in FIREPAC contributions between 2002 and 2008. The respective total individual amounts of reimbursements during this period ranged from \$354.00 to \$2,479.31.

10. In late 2008, Mr. Woodzicka replaced Mr. Gale as PFFW President. In preparation for the January 2009 retreat, Mr. Woodzicka reviewed all of PFFW's practices and procedures as well as the IAFF legislative conference registration materials stating that contributions to FIREPAC could not be reimbursed with union funds. At the retreat, Mr. Woodzicka announced his intention to immediately end these reimbursement practices. Respondents assert that all of the other officers acquiesced in that decision without further discussion. PFFW did not take any action regarding the previously reimbursed contributions.

² Although there were no designated "legislative meeting" dates in 2004, and therefore no reimbursements for contributions, the omission was noted at the 2005 retreat and the officers informally agreed to designate three days of "legislative meetings" in 2005, rather than the customary two days, to reimburse the 2004 contributions after the fact.

Since the reimbursements for FIREPAC contributions in connection with the 2008 IAFF legislative conference, PFFW has not reimbursed any officer for a contribution to FIREPAC by paying expenses for fictitious legislative meetings and has not knowingly reimbursed any officer for such contributions in any manner.

11. In 2009 and 2010, PFFW reimbursed three officers, Respondents Baird, Gee, and Hanson, for a total of \$1,375 in FIREPAC contributions, by paying these officers' respective expense statements seeking reimbursement of various IAFF conference registration fees. Unknown to PFFW's other officers, however, these fees had been waived because each of these officers instead had made a \$500 contribution to FIREPAC in lieu of paying the registration fee. In 2011, Respondents Baird, Gee, and Hanson each voluntarily informed PFFW that he had not paid the claimed registration fee and in fact had made a FIREPAC contribution in order to register. Prior to the Submission, these three officers repaid PFFW the amount of those 2009 and 2010 reimbursements

12. In January 2010, an IAFF officer became aware of PFFW's prior practice of reimbursing FIREPAC contributions through false expense claims relating to fictitious legislative meetings. He asked two Executive Board officers how PFFW would rectify the situation and met with several PFFW Executive Board officers in March 2010 to discuss how to proceed. The Executive Board of PFFW then consulted for the first time with legal counsel about the matter. The Executive Board was informed that the reimbursement payments violated the Federal Election Campaign Act of 1971, as amended ("the Act").

13. The Executive Board then convened and appointed a "Special Committee" comprised of the four current officers who had never sought such reimbursements to review the matter and recommend remedial measures. The Special Committee conducted its review in

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March and April 2010, and the Respondents contend that all of the individual Respondents fully cooperated with the review. The Special Committee determined that all PFFW officers who had been reimbursed since 2002 for their FIREPAC contributions should reimburse PFFW in full for the amounts of these reimbursements as known to PFFW, as well as for the period prior to 2004 as to which (for reasons unrelated to the reimbursement practices) PFFW did not have records.. By May 2010, all Respondents repaid PFFW for the designated amounts improperly reimbursed through the fictitious "legislative meetings" expense vouchers, and in several instances Respondents who had received such reimbursements in 2002 and 2003 used either personal records or estimates to include reimbursements covering those years. The Special Committee also informed PFFW's five regional caucuses of the relevant facts about the expense reimbursements, resulting in disclosures to PFFW's local unions and membership, and PFFW informed the IAFF and FIREPAC about them.

14. In December 2010, the PFFW Executive Board resolved to make a *sua sponte* submission concerning these matters to the Commission and, through counsel, orally notified the Commission of the potential violations. As of December 2010, five PFFW officers who had received "legislative meeting" reimbursements still served on the PFFW Executive Board. To further enable PFFW to resolve these issues, these five officers agreed to and did formally resign their positions in December 2010. Accordingly, at that time PFFW had not knowingly engaged in the expense reimbursement practices for over two and one-half years; had secured voluntary reimbursement from the 11 individual Respondents of all reimbursement payments made by PFFW pursuant to those practices; disclosed the practices to the broader PFFW community as well as the IAFF and FIREPAC; and effectively reconstituted its leadership

to consist only of officers who had never secured PFFW reimbursement for FIREPAC contributions.

15. PFFW then undertook an effort, in cooperation with all but one of the 11 individual Respondents, to amass relevant records and assemble statements by the individual Respondents to provide a full written *sua sponte* submission to the Commission. During that effort, Respondents Baird, Gee and Hanson voluntarily disclosed to PFFW the facts concerning additional reimbursements to them during 2009 and 2010. On August 5, 2011, PFFW and ten individual Respondents filed a comprehensive *sua sponte* submission with the Commission, covering events occurring both within and preceding the applicable statute of limitations period. Ms. Watzka made a submission to the Commission on her own behalf on October 14, 2011. The Commission acknowledges that these submissions reflected a substantial and good faith effort by Respondents to disclose the facts concerning the expense reimbursement practices, and that Respondents since have provided additional information and documentation requested by the Office of General Counsel that has assisted the Commission to determine an appropriate disposition of this matter at this pre-probable cause stage.

16. Each Respondent has acknowledged responsibility for his or her actions that violated the Act, and each has expressed contrition and regret about those actions and their adverse impact on PFFW both publicly and directly to the Commission.

V. The pertinent legal principles in this matter are as follows:

1. The Act prohibits a labor organization from making, or any officer of such a labor organization from consenting to, a contribution in connection with any federal election. 2 U.S.C. § 441b(a); 11 C.F.R. § 114.2(b), (e). The Act further provides that "no person shall make a contribution in the name of another person." 2 U.S.C. § 441f; 11 C.F.R. § 110.4(b)(i).

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The prohibition extends to knowingly permitting one's name to be used to effect the making of a contribution in the name of another or knowingly helping or assisting any person in making a contribution in the name of another. 11 C.F.R. § 110.4(b)(ii), (iii).

2. The Act also addresses violations of law that are knowing and willful. 2 U.S.C. §§ 437g(a)(5)(B), 437g(d). The knowing and willful standard requires knowledge that one is violating the law. *FEC v. Dramesi for Cong. Comm.*, 640 F. Supp. 985, 987 (D.N.J. 1986). A knowing and willful violation may be established "by proof that the defendant acted deliberately and with knowledge" that the action was unlawful. *United States v. Hopkins*, 916 F. 2d 207, 214 (5th Cir. 1990). The Commission need not show that a respondent had specific knowledge of the regulations; if appropriate, however, an inference that a respondent knew that his conduct was unlawful may be drawn from the respondent's scheme to disguise the source of funds. *Id.* at 213-15; *see also National Right to Work Comm. v. FEC*, 716 F. 2d 1401, 1403 (D.C. Cir. 1983) ("'knowing and willful' means 'defiance' or 'knowing, conscious and deliberate flaunting' of the Act") (quoting *AFL-CIO v. FEC*, 628 F. 2d 97, 98, 101 (D.C. Cir. 1980)).

VI. To resolve this matter without the time and expense necessary to adduce proof and contest allegations as to each Respondent or to engage in litigation, the Commission and the Respondents agree to the following:

1. PFFW violated 2 U.S.C. §§ 441b(a) and 441f and 11 C.F.R. §§ 110.4(b)(i) and 114.2(b)(1) by using labor union general treasury funds to make \$16,888.34 in contributions in the names of others from 2002 to 2008, and \$1,375 in contributions in the names of others from 2009 to 2010. With regard to the contributions made from 2002 to 2008, Respondents have provided the Commission with evidence the Commission concludes is sufficient to demonstrate that PFFW knowingly and willfully violated those provisions of the Act and

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Commission regulations. PFFW does not admit, however, that it acted with knowing and willful intent to violate the law.

2. PFFW Executive Board Officers Tracy Aldrich, Robert G. Baird, Michael Drury, Richard F. Gale, John C. Gee, Troy W. Haase, Lance A. Hanson, Patrick Kilbane, Len Orlando, Ann Watzka, and Michael J. Woodzicka, violated 2 U.S.C. §§ 441b(a) and 441f, and 11 C.F.R. §§ 110.4(b)(ii), (iii), and 114.2(e) by consenting to the use of labor union general treasury funds to make contributions in the names of others, by permitting their names to be used for the making of contributions in the name of others, and by knowingly helping or assisting in the making of contributions in the names of others between 2002 and 2008. Respondents have provided the Commission with evidence the Commission concludes is sufficient to demonstrate that these Respondents knowingly and willfully violated those provisions of the Act and Commission regulations. These Respondents do not admit, however, that they acted with knowing and willful intent to violate the law.

3. In addition, PFFW Executive Board Officers, Robert C. Baird, John C. Gee, and Lance A. Hanson, violated 2 U.S.C. §§ 441b(a) and 441f, and 11 C.F.R. §§ 110.4(b)(ii), (iii), and 114.2(e) with respect to the contributions made in their own names in 2009 and 2010 by consenting to the use of labor union general treasury funds to make contributions in the name of another, by permitting his name to be used for the making of contributions in the name of another, and by knowingly helping or assisting in the making of contributions in the name of another. Respondents have provided the Commission with evidence the Commission concludes is sufficient to demonstrate that these Respondents knowingly and willfully violated those provisions of the Act and Commission regulations. These Respondents do not admit, however, that they acted with knowing and willful intent to violate the law.

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VII. Respondents agree to the following:

1. Respondents will cease and desist from violating 2 U.S.C. §§ 441b(a) and 441f, and 11 C.F.R. §§ 110.4(b)(i)-(iii) and 114.2(b)(1), (e).
2. Respondents will pay a civil penalty of \$58,000 pursuant to 2 U.S.C. § 437g(a)(5)(A).
3. Respondents waive the right to any refund from FIREPAC of any and all of their contributions referenced in this agreement, and Respondents will request that FIREPAC disgorge to the United States Treasury all contributions that have not been previously so disgorged.
4. Respondents Tracy Aldrich, Michael Drury, Richard F. Gale, Troy W. Haase, Patrick Kilbane, Len Orlando, Ann Watzka, and Michael J. Woodzicka will not seek or accept election to or otherwise serve in PFFW Executive Board office until June 30, 2013.
5. Respondents Robert G. Baird, John C. Gee and Lance A. Hanson will not seek or accept election to or otherwise serve in PFFW Executive Board office until June 30, 2015.

VIII. The Commission, on request of anyone filing a complaint under 2 U.S.C. § 437g(a)(1) concerning the matters at issue herein or on its own motion, may review compliance with this agreement. If the Commission believes that this agreement or any requirement thereof has been violated, it may institute a civil action for relief in the United States District Court for the District of Columbia.

IX. This agreement shall become effective as of the date that all parties hereto have executed same and the Commission has approved the entire agreement.

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X. Respondents shall have no more than 30 days from the date this agreement becomes effective to comply with and implement the requirements contained in this agreement and to so notify the Commission.

XI. This Conciliation Agreement constitutes the entire agreement between the parties on the matters raised herein, and no other statement, promise, or agreement, either written or oral, made by either party or by agents of either party, that is not contained in this written agreement shall be enforceable.

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FOR THE COMMISSION:

Anthony Herman
General Counsel

August 3, 2012
Date

BY:

[Signature]
Daniel A. Petalas
Associate General Counsel
for Enforcement

FOR THE RESPONDENTS:

June 20, 2012
Date

BY:

Laurence E. Gold
Laurence E. Gold
Counsel to Professional Fire Fighters
of Wisconsin

6/15/12
Date

[Signature]
Friebert, Finerty & St. John, S.C.
Counsel to Messrs. Baird, Drury, Gale,
Gee, Haase, Hanson, and Woodzicka

June 13, 2012
Date

Attorney William Appel
William Appel, Esq.
Counsel to Ann Watzka

6/19/12
Date

[Signature]
Tracy Aldrich

6-18-12
Date

[Signature]
Patrick Kilbane

6-18-12
Date

[Signature]
Len Orlando

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